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571-273-8300

April 10, 2006

To: Office of Petitions
Regarding Patent Application
#10/648,409

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APR 11 2006

On March 10, 2006, I received
Notice of Abandonment. I believe
this is improper for at least two
reasons —

① I did NOT receive any Office
letter mailed July 28, 2005,

② I did reply, in a timely manner,
to the Office letter received by
me in ~~the~~ early November 2005.
My reply was mailed November 28,
2005, by Express Mail USPS,
and delivered in Alexandria, Va.
at 9:10 AM, November 30, 2005

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I have discussed this matter with Examiner Janet Wilkens, who says she never received the materials I mailed on November 28, 2005. On March 30, 2006 she suggested I fax these materials, and supporting materials, to you, citing rule 1.181.

Materials in this FAX are :

- ① 9 page handwritten letter Nov 28, 2005
- ② pages #1 and #2, revisions to Specification and Claim
- ① and ② Mailed Nov 28, 2005
- ③ pages #1 and #2, marked up copy
- ④ USPS Express Mail delivery confirmation
- ⑤ Office letters received by me in Nov 2005, and March 2006.

Thanks,
Steve Smith

Nov 28, 2005

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia

Regarding Application 10/648,409

Dear Sir:

In July I received a notice of non-compliant amendment. I had a telephone conference with my examiner, Janet M. Wilkins in which she explained what I needed to submit to correct the situation. It was a fairly simple matter; I believed I understood what she wanted, and I made the changes and submitted the requested materials on July 28, 2005. On November 7, 2005 I received a Failure to Acceptably Respond to Notice of Non-compliant Amendment. This notice had items 1, 2, and 4 checked (X) as causing the amended document to be non-compliant. I immediately

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called my examiner, Janet M. Wilkens. Her voice mail said, "This is Janet Wilkens, it's Nov 4, and I will be back in the office February 3." So I call her supervisor Lana Mai to discuss the situation. Essentially she told me that the materials I submitted on July 28, 2005 were unsatisfactory, and that I would have to make corrections, and ② pay \$795.00 or \$1000.00 +, she didn't know exactly, or my application would be ~~abandoned~~ abandoned. Furthermore, she refused to explain what it meant on the non-compliant notice where it was referring to underlines, brackets, and strikeouts. She said it was up to me to figure

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it out, and since I couldn't,
then I should hire a lawyer.

By this time I'm beginning to think
this situation is ridiculous and
absurd. We end the conversation.

I can't believe that my patent
application is going to be rejected
because some word is not bracketed
or underlined. Janet Wilkerson NEVER
said anything to me about brackets,
underlines, or strikeouts. But if
that is necessary, I certainly can
do it. OK, I decide to call
Dai Johnson, whose signature and
phone number appear on the Nov 7
Failure to Acceptably Respond notice.
What a pleasant surprise! Dai Johnson
was very courteous, patient, and

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helpful. She quickly explained about the brackets, underlines, and strikeouts, and about exactly where to put the page number and date, and signature, so that the pages in question (2 pages exactly) would be "compliant". So I have made the requested changes, (it was so simple, it took me about 10 minutes), and I am sending them to you today by Express Mail. I have a big problem with the \$795.00. I think it is unfair, unforeseen, and exorbitant under these circumstances, and I will tell you why. ① All the relevant substantive material was submitted as requested in a timely manner,

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on July 28, 2005, within the 30 days allowed for reply. Anyone would have been able to determine what was new or old, and Janet Wilkens, my examiner, who was familiar with the material, certainly knew. If it is just a matter of brackets, or underlines so that you folks can more easily computerize the info, should I have to pay \$795.00?

② If there was a problem, why couldn't I have been notified sooner than 3 months? Why couldn't I have been notified in August? Jai Johnson said a 1 month time extension fee was \$60.00 I don't think I should have to buy any time, but \$60.00 is certainly more reasonable.

③ My examiner, Janet Wilkens is

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gone until Feb 3, 2006. I have been told she is on maternity leave. I wonder if she was able to devote full attention to her work as her pregnancy advanced in the hot summer time. At any rate, for her to take 3 months to respond to my July 28, 2005 submission seems excessive. And with Mrs Wilkerson gone until Feb 3, there is no one who is familiar with my application.

- ④ I started this process by filing a Provisional Patent Application on August 26, 2002, over 3 years ago. During this period, there have been many communications back and forth between me and the Patent Office. I have ALWAYS responded in a timely manner. The Patent Office usually takes 3, 4, or more months

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to respond in return. So when I didn't get an immediate response to my July 28, 2005 submission, I was not concerned. Janet Wilkens never told me that if she did not approve the materials I sent that my time for reply would end July 31, 2005, regardless of whether I was informed earlier or later. The penalty was totally unforeseen by me.

- ⑤ In addition to not getting all the relevant information from Janet Wilkens, I have been getting conflicting information from Patent Office employees. For example — Yoi Johnson told me to sign each page with my signature and date. She said I needed to do that to make it compliant. She also

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said to be sure to put the application number on each page. Fine! No problem! But my examiner Janet Wilkerson said it wasn't necessary to put the application number on each page, and she NEVER said anything about a signature. Look, I don't care, I will do it any way you want it. It seems like not everybody is on the same page. I shouldn't be penalized for that.

⑥ Finally, I would like to say that my idea, concept, invention, whatever you want to call it is

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a good thing. Millions of baby-boomers with weak ankles, knees, & hips will be able to extend their mobility. And people of any age will appreciate the upper body exercise benefit of using my invention. I discovered and developed it on my own, nobody else has anything like it, and I deserve a patent for it.

Sincerely,
Steven A. Smith

P.S. I have NEVER changed the abstract.

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A.S.A.